

MINUTES OF THE COMMISSION FOR HUMAN RIGHTS

MAY 29, 2009

A regular meeting of the Commission for Human Rights was held in the agency conference room on Thursday, May 29, 2009. Present at the meeting were Camille Vella-Wilkinson, Iraida Williams, Alberto Aponte Cardona and Rochelle Lee. Absent were Commissioners Nancy Kolman Ventrone, Dr. John Susa and Alton Wiley, Jr. Commissioner Vella-Wilkinson, Acting Chair, called the meeting to order at 9:20 a.m. Commissioner Aponte Cardona entered at 9:40 a.m. and Commissioner Lee entered the meeting at 10:20 a.m.

The informational only meeting began at 9:20 with the Directors' Report.

At 9:40 once a quorum was achieved, the regular meeting began.

A motion was made by Commissioner Williams to approve the minutes of April 24, 2009. The motion to approve was seconded by Commissioner Cardona and carried.

Status Report: Michael D. Évora, Executive Director

A written report was handed out. All new information is in bold print.

Case Production Report – Attached

Aged Case Report - Attached

Outreach Report - Attached

STATUS REPORT - COMMISSIONERS-

GENERAL STATUS: Commissioner Cardona has been appointed to the Roger Williams Law School Advisory Board. The funeral of former Commissioner Randolph Lowman was held on Tuesday, May 26, 2009 at 10am. Several Commission staff members and Commissioners attended.

Commissioner Meeting -2- May 29, 2009

OUTREACH: Commissioner Williams, who is the President of the Rhode Island Chapter of the A.G. Bell Association for the Deaf and Hard of Hearing, sent a letters to parents urging them to call and inform their local representatives to support bill H5703. This Bill

would require health insurance policies to cover cochlear implant surgery.

STATUS REPORT - LEGAL COUNSEL by Cynthia M. Hiatt and Francis Gaschen

LITIGATION: Report Attached.

LEGISLATION: The crucial bills were discussed.

An updated list of legislative testimony
of Commission staff is attached.

REGULATIONS: No discussion at this time.

HEARING SCHEDULE: Discussed

DECISIONS: No Discussion

The meeting adjourned at 10:30 a.m. The next regular meeting of the Commission is scheduled for Friday, June 26, 2009 at 9:00 am.

Respectfully Submitted,

Michael D. Évora
Executive Director

Notes taken by: B. Ross

**EXECUTIVE DIRECTOR'S
REPORT TO COMMISSIONERS
MAY 29, 2009**

I. BUDGET

S = State/General Revenue; F = Federal (EEOC/HUD); T = Total

	FY 2009	FY 2009	FY 2009	FY 2010	FY 2010
	(Enacted)	(Gov.Revised)	(Final)	(Request)	(Gov. Recomm.)
S	991,659	932,418	924,424	868,444	1,016,242
F	391,309	472,455	472,455	406,615	408,505
T	1,382,968	1,404,873	1,396,879	1,275.059	1,424,747

On Monday, May 4, I appeared before the House Finance Committee as that Committee heard the Governor's Recommendation for the Commission's FY 2010 budget.

II. FEDERAL CONTRACTS

EEOC – For federal FY 2009 (ending 9/30/09), according to EEOC Project Director Marlene Toribio, we have closed 138 co-filed cases.

We had been advised that our 2009 EEOC contract was for 256 cases; we recently received the formal contract, which is for 217 cases. Nationally, EEOC has reduced each FEPA's 2009 contract by approximately 16%. In order to meet the contract, we must close an additional 79 cases by September 30.

HUD – For FY 09, according to HUD Project Director Angela Lovegrove, we have taken in 58 new housing charges, 51 of which are co-filed with HUD. Within this same time period, we have processed 62 housing charges, 55 of which were co-filed with HUD. Given these numbers, FY 2009 will be a record year with respect to both intake and case processing.

III. PERSONNEL

No new information to report.

IV. OUTREACH – Refer to attached report

V. GENERAL STATUS

●Meetings with staff members – I continue to meet with individual investigative staff members on a monthly basis to monitor case production.

●Case Closures – Refer to attached report.

●Aged Cases – Refer to attached report.

●Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 98. We ended FY 08 with approx. 370 cases in inventory. As of 5/20/09, we had a total of 342 cases in inventory; nine of those cases were pending assignment.

●Federal Grant Opportunity - The federal Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC; under the U.S. Dept. of Justice) has announced the availability of funds for its public education grant program. The grant application process is open until April 27, 2009 and virtually all entities--including state and local agencies--are eligible to apply. Grants are awarded to organizations proposing to educate workers of their rights and employers of their responsibilities under the anti-discrimination provision of the Immigration and Nationality Act (INA). Grants typically range from \$35,000--\$100,000 with a term of 12 months.

Susan Pracht and I met with representatives of the International Institute of Rhode Island (IIRI) on April 13. We are partnering with the IIRI for the grant application process; the Commission proposes to be the chief grant recipient and to subcontract with IIRI to provide certain outreach and administrative services. The grant application was submitted on Saturday, April 25.

●HUD On-Site – Mary Sales, the Commission’s Government Technical Representative (GTR) from the Boston HUD Office, conducted HUD’s annual on-site review of the Commission on May 19 and 20. The evaluation report likely will not be completed for several months.

●HUD Issue – We are in contact with HUD officials to ensure that we are in compliance with our Memorandum of Understanding with HUD as part of HUD’s five-year recertification process.

●EEOC National Conference – Marlene Toribio, EEOC Project Director, and I will be attending the 2009 EEOC National Conference in Baltimore, MD from June 3 to June 5.

●Commission Gift Policy – In accordance with Dr. Susa’s request at April’s Commission meeting, Summer Legal Intern John Bogue is researching issues surrounding the development of a gift policy for the Commission. Cynthia Hiatt is supervising this research project.

●“Honorarium” - On April 2, I received a check in the amount of \$1500.00, made payable to the Commission, from RI for Community and Justice (RICJ). The money was designated as an “honorarium” in acknowledgement of my “active participation and ... lead role” in the Advisory Group for the RICJ project: Collaboration to Address Disproportionate Minority Contact (DMC) of Juveniles with the Rhode

Island Justice System.

After consultation with Legal Counsels, it was decided that I should seek an advisory opinion from the RI Ethics Commission as to the propriety of accepting the check. By letter dated April 6, 2009, I sought such an opinion. On April 14, 2009, I received the Response of the Ethics Commission's Executive Director conveying his belief that the RI Ethics Code did not prohibit the Commission from accepting the contribution, reasoning in part that the Code's prohibition against receiving honoraria did not apply in this instance since the check was not made out to me personally. (Copy attached.)

That correspondence observed that a majority of the Ethics Commission needed to approve the Response before I could take any further action.

On April 21, 2009, Cynthia Hiatt and I attended a meeting of the Ethics Commission at which the issue was discussed. The Ethics Commission voted to accept the Response of the Executive Director. A formal, final written Advisory Opinion is to follow. I now seek approval from our Commissioners to accept/deposit the check into the Commission's revenue account.

The formal Advisory Opinion was issued on April 21, 2009. A copy of that Opinion is available upon request.

Respectfully submitted,

Michael D. Évora
Executive Director

Attachments

To: Commissioners

From: Cynthia Hiatt and Frank Gaschen, Legal Counsels

Re: Litigation

Date: May 29, 2009

Recent developments are in bold.

Christopher Antonelli Bankruptcy

On November 5, 2008 the Commission entered a Decision on damages in the case of DeAngelis v. Antonelli, et al. Thereafter Mr. Antonelli filed bankruptcy and included the RICHR as a creditor. The attorney for DeAngelis appeared at the last hearing. The hearing was finally heard.

Aquidneck Island v. RICHR, et al.

This suit was brought by the plaintiff against multiple parties, alleging that liens have been placed on its property improperly. All liens were against Norman Cardinale not Aquidneck. Case is moot now.

Atturio et al v. Évora

This is an appeal of a Commission decision that granted in part and denied in part a motion to quash a Commission subpoena. The Court upheld the decision of the Commission. A draft order was sent to plaintiffs' counsel who is now vetting it. Counsel are working on the Order.

Babbitt v. Crescent Park Manor, et al.

The Commission intervened as a party plaintiff in this case. Discovery is ongoing. A discovery deposition was held. A motion to assign the case for trial was granted.

Bagnall v. RICHR and WLWC et al.

The complainant appealed the Commission Decision and Order. The Commission filed the administrative record on April 12, 2006. On April 22, 2008, the complainant's attorney filed his brief. The Commission's Brief was filed on August 27, 2008. The Commission received the respondent's brief on December 5, 2008. The parties plan to move to have the appeal assigned to a judge for decision. The complainant's attorney has informed me that he may file a reply memo.

Gaffney v Town of Cumberland et al

The respondent appealed the Commission decision. In November, 2007, Judge Savage remanded the Commission Decision for the Commission to determine how the Commission would evaluate the

evidence, given the conclusions reached in her decision. Judge Savage also asked the Commission to re-assess its Order. After numerous efforts to reach a resolution between the parties, on October 24, 2008, Commission Counsel notified the parties that on January 5, 2009, the Commission would commence reconsideration of the decision in light of Justice Savage's decision. The letter provided that the parties' counsel could submit memoranda on reconsideration on or before January 5, 2009. As requested, respondent's counsel sent in the relevant ordinances and regulations in effect at the time in question and in effect at the present time. New counsel entered for the complainant on January 2, 2009. On Monday, January 26, 2008, the complainant's attorney requested a sixty day extension to submit a brief on Mrs. Gaffney's position. The request was granted by the hearing officer. The complainant submitted a memo/letter on April 8, 2009 and the respondents submitted a response on April 10, 2009. The respondents have been requested to supply the zoning ordinance in effect in 1994.

J.J. Gregory and Sons v. RI Commission for Human Rights and Brenda Zeigler

The Commission found that J.J. Gregory and Sons discriminated against Brenda Zeigler because of her sex. J.J. Gregory and Sons filed an administrative appeal. Its appeal was amended to include an appeal of the Commission's Decision on Damages and Attorney's Fees. The Commission filed the administrative record with the Court on February 14, 2008. Respondent filed its brief on January 5, 2009.

The complainant filed her brief on January 29, 2009. The Commission filed its brief on February 9, 2009. On February 10, 2009, the appeal was assigned to Judge Judith Savage for decision.

Laboy v. Stat Health Services

Counsel is trying to locate respondent's officers in order to ensure compliance with the Commission Decision and Order.

MHRH v. RICHR and the Estate of Dr. John Satti

MHRH has appealed the Commission decision that MHRH retaliated against Dr. Satti and discriminated against him on the basis of his age. MHRH filed its Brief on August 7, 2008. On October 21, 2008, the Commission filed the administrative record. On January 14, 2009, the Commission filed its brief. The complainant's brief is pending.

RICHR (Breault) v. Elmhurst House, et al.

In this Fair Housing Practices Act case, the respondents elected to have the case heard in Superior Court. Suit on behalf of the Breaults was filed against four respondents in Providence Superior Court on January 27, 2009. Discovery is drafted.

RICHR (Figueroa) v. Valley Affordable Housing

Respondents elected in this Fair Housing Practices Act case. Suit on behalf of the Figueras was filed against two respondents in Providence County Superior Court. Settlement offer was not accepted. Discovery has started. A motion to compel discovery was

granted. Motion to default to be filed. Waiting for reply on settlement from Defendants' attorney. Second charge ready to be brought to Court.

RICHR (Lovegrove) v. Escolastico

RI judgment was obtained and sent to FL lawyer for collection. Waiting for Lovegrove to forward funds to FL counsel to begin Supplementary Proceedings against Escolastico.

RICHR (Martin) v. Cardinale, et al.

A complaint alleging a transfer of real estate in violation of the Uniform Fraudulent Transfers Act was filed against Norman Cardinale, et al. Motions for Entry of Default were granted on January 21, 2009.

RICHR (Martin) v. Cardinale, et al.

A complaint alleging a transfer of partnership interests in real estate in violation of the Uniform Fraudulent Transfers Act has been filed against defendants. Discovery commenced. Motions to compel will be filed.

RICHR (Morin) v. Teofilo Silva, et al.

A complaint for enforcement was filed on 3-24-05. Service of the complaint will be made once respondent can be located.

RICHR (Robinson) v. Geruso, Flagship Management, et al.

A complaint against six defendants has been filed in Superior Court alleging racial discrimination in a failure to rent case that went probable cause. The case is settled and HUD and the press notified. RICHR will monitor the case for three years and Angie will provide training within 30 days.

RICHR (Sousa) v. Galvin

A Miscellaneous Petition was filed in Providence County Superior Court to have a show cause hearing on whether Mr. Galvin should be held in contempt for failure to comply with two subpoenas duces tecum, either by appearing or sending the documents requested. Defendant avoiding service.

RICHR (Switzer) v. Principe

The respondents elected in this housing case that went probable cause on the basis of familial discrimination. Suit was filed in state court on January 27, 2009. Discovery was drafted. Defendant served. Second charge ready to be brought to Court.

RICHR (Zeigler) v. Laura Sitrin, Finance Dir. of Newport

Case resolved. Commission must annually monitor City training. Training completed for 2007. Notice to be sent to the city regarding the annual training.

Sovereign Bank v. Builders Resources, Inc., et al.

The plaintiff petitioned the defendants into receivership. The commission has a charge pending against the named defendant, but is prevented from further action because the Court issued an Order staying all pending actions. I will be filing today a Motion for Relief, asking the Court for permission to continue our action. The Receiver has no objection to our motion. I have spoken to the attorney for the complainant before us, and, in the meantime, he will speak to the Receiver to see if the pending charge can be settled.

Tucker v. Blue Cross

The complainant filed an administrative appeal of the Commission's finding of no probable cause. No action taken since appeal filed in 2004.